

REMARKS

Claims 1-41 are pending. No new matter has been added by way of the present submission. For instance, newly claim 41 is supported by originally filed claim 6 as well as the present specification at page 15, lines 18-20. Accordingly, no new matter has been added.

Restriction Requirement

At pages 2-20 of the outstanding communication, the Examiner has requested that Applicants elect one of Groups I-CDV. Applicants strongly traverse this restriction requirement.

The Examiner has separated different groups, for instance, Groups I-XC, asserting that the subject matter of these groups is unrelated in structure and/or function. Applicants disagree with this assertion. In particular, the present claims relate to different mutations in Green Fluorescent Protein (GFP). The claims relate to mutations in GFP which result in an increase in fluorescence intensity. In a main embodiment, the mutation is at position 1 preceding the chromophore of the GFP. Several different chromophores are disclosed as well as several different mutations at position 1. Additionally, different source organisms, such as *Renilla reniformis* or *Aequorea victorea*, are disclosed.

Each of these GFP molecules is structurally related in that they differ by, for example, the mutation at position 1 or the nature of the chromophore. However, other portions of the molecule are common to all GFP. Additionally, each of these GFP share the disclosed increased fluorescence intensity and therefore are not functionally unrelated as asserted.

As such, Applicants submit that at least Groups I-XC should be rejoined and searched as a whole. At the very least, the Examiner should rejoin all groups wherein the amino acid preceding the chromophore is, for instance, Leucine (L), for any GFP, having any chromophore. Each of these GFP molecules share the increased fluorescence intensity discussed above. Such a grouping would rejoin at least groups I-XIII.

In order to be fully responsive to the outstanding Restriction Requirement, Applicants hereby elect Group X, directed to claims 1-9, 23-25, 32 and 38, insofar as they are directed to GFP from *Aequorea victorea*, wherein the first amino acid preceding the chromophore is Leucine (L), and the chromophore is Threonine-Tyrosine-Glycine (T-Y-G). This GFP is representative of the F64L-S65T-GFP variant. This is an election with traverse as noted above.

S65T-GFP variant. This is an election with traverse as noted above.

Applicants further submit that claims 1-4, 8, 23 and 27 are linking claims as recognized by the Examiner. Upon the allowance of the linking claims, the restriction as to the linked inventions should be withdrawn and any claim depending therefrom should be entitled to examination in the present application. Additionally, any process claims which include all limitations of allowable product claims should be rejoined.

If the Examiner has any questions or comments, please contact Craig A. McRobbie, Reg. No. 42,874 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants hereby petition for an extension of four (4) months to April 4, 2004 in which to file a reply to the Office Action. The required fee of \$1,480.00 is enclosed herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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